

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

AND

THE HONOURABLE SRI JUSTICE P.SWAROOP REDDY

WRIT PETITION NO.3820 OF 2002

DATED: 11.11.2005

Between:

Y.Babu Rao, S/o Gajendra Rao

...PETITIONER

And:

Union of India, repto by the General

Manager, South Central Railway,

Rail Nilayam, Secunderabad-500 071

and two others.

...RESPONDENTS

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

AND

THE HONOURABLE SRI JUSTICE P.SWAROOP REDDY

WRIT PETITION NO.3820 OF 2002

ORAL JUDGMENT: (per Sri DSRV, J)

This writ petition is filed challenging the order, dated 23.03.2001, passed by the Chief Justice of this Court in Arbitration Appeal No.41 of 2000 refusing the appointment of an Arbitrator.

In normal course, against the impugned order, a writ petition would lie

to the High Court under Article-226 of the Constitution of India as per the judgment of the Apex Court in ***Konkan Railway Corpn. Ltd. & anr. Vs. Rani Construction Pvt. Ltd.***. But the said judgment had been overruled by a Larger Bench of the Apex Court in M/s S.B.P. & Co. Vs. Patel Engineering Ltd. and another, wherein it was held that the order of the Chief Justice either appointing an Arbitrator or rejecting the application filed under Section-11 of the Arbitration and Conciliation Act, 1996, has to be challenged only before the Apex Court, the same being a judicial order. The Apex Court also made it explicitly clear that the above judgment would come into effect from 26.10.2005.

In view of the judgment of the Apex Court in M/s S.B.P. & Co. (2nd supra), the present writ petition is liable to be dismissed and is accordingly dismissed, with liberty to the writ petitioner to take recourse as held by the Apex Court in S.B.P. & Company's Case (2nd supra). No order as to costs.

D.S.R.VARMA, J

11.11.2005

DR

P.SWAROOP REDDY, J